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July 28, 2023

VIA ECF

Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, N.Y. 10007

MEMO ENDORSED

The Application is granted.

SO ORDERED:

Paul G. Gardephe
Paul G. Gardephe, U.S.D.J.

Dated: *July 28, 2023*

Re: Wentworth Rattray v. Jose Cadavid, et. al.
17-CV-8560 (PGG) (KHP)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, representing defendants City of New York, Police Officer Jose Cadavid, Sergeant Mervin Bautista, and Police Officer Alyssa Trigueno in the above-referenced action. Defendants write to respectfully request (1) a one-week extension of time from July 28, 2023 to August 4, 2023 for the parties to file the joint pre-trial order, joint proposed voir dire, and joint requests to charge, as well as their respective motions *in limine*; and (2) a one-week extension of time from August 4, 2023 to August 11, 2023 for the parties to file their oppositions to motions *in limine*. Plaintiff's counsel consents to these requests.

By way of background, on November 2, 2017, plaintiff commenced this action pursuant to 42 U.S.C. § 1983 by filing the Complaint. *See* ECF No. 2. Plaintiff then filed a First Amended Complaint on November 20, 2017 and a Second Amended Complaint on June 29, 2018. *See* ECF No. 6, 42. On November 21, 2018, defendants moved to dismiss plaintiff's Second Amended Complaint pursuant to Fed. R. Civ. Pro. 12(b)(6). *See* ECF No. 54. On September 10, 2019, the Court dismissed the City of New York and Sergeant Mervin Bautista as defendants but denied defendants' motion to dismiss as to defendant Cadavid and Trigueno regarding plaintiff's § 1983 claims for unlawful search and as to defendant Trigueno for plaintiff's failure to intervene claim to the extent that claim is premised on unlawful search. *See* ECF No. 72. On July 16, 2020, the Court granted plaintiff permission to file a Third Amended Complaint only as to the following claims: (1) a § 1983 claim for unlawful search against defendant Cadavid and Trigueno; (2) a § 1983 claim for false arrest against defendant Cadavid; and (3) a § 1983 claim for failure to intervene in the alleged unlawful search and false arrest against defendant Trigueno. *See* ECF No. 98. On July 28, 2023, plaintiff filed his Third Amended Complaint. *See* ECF No. 99.

On April 15, 2022, defendants filed their motion for summary judgment. *See* ECF No. 206-207, 216. On March 30, 2023, Your Honor granted defendants' motion for summary judgment only as to plaintiff's claim against defendant Trigueno for unlawful search but denied defendants' motion for summary as to (1) plaintiff's claim against defendant Cadavid for unlawful search, (2) plaintiff's claim against defendant Trigueno for failure to intervene in defendant Cadavid's alleged unlawful search, (3) plaintiff's claim against defendant Cadavid for false arrest, and (4) plaintiff's claim against defendant Trigueno for failure to intervene with respect to defendant Cadavid's alleged false arrest. *See* ECF No. 225. On May 11, 2023, a settlement conference was held. *See* ECF, Docket Entry 05/11/2023.

On May 16, 2023, Your Honor scheduled a trial in this matter for June 12, 2023, and set a May 26, 2023 deadline for the parties to submit the joint pretrial order, joint proposed voir dire, joint proposed request to charge, and their respective motions *in limine*, and further ordered that oppositions to motions *in limine* were to be filed by June 2, 2023. *See* ECF No. 233. At a June 1, 2023 conference, the trial in this matter was adjourned to August 29, 2023 and the pretrial filing deadlines were also extended. *See* ECF No. 241.

Defendants now require a one-week extension, from July 28, 2023 to August 4, 2023, in order to file to file the joint pre-trial order, joint proposed voir dire, joint requests to charge, as well as their respective motions *in limine*. Defendants did not receive opposing counsel's draft of their versions of the proposed voir dire, requests to charge, verdict sheet, and joint pre-trial order until July 24, 2023. As such, defendants require additional time to draft their respective portions of the aforementioned pre-trial materials and for the parties to finalize the documents.

Accordingly, defendants respectfully request (1) a one-week extension of time from July 28, 2023 to August 4, 2023 for the parties to file the joint pre-trial order, joint proposed voir dire, and joint requests to charge, as well as their respective motions *in limine*; and (2) a one-week extension of time from August 4, 2023 to August 11, 2023 for the parties to file their oppositions to motions *in limine*.

Thank you for your consideration herein.

Respectfully submitted,



Felix De Jesus
Assistant Corporation Counsel
Special Federal Litigation Division

cc: **VIA ECF**
All attorneys of record